

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4353 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MOHANJI BABAJI THAKORE

Versus

DISTRICT MAGISTRATE

Appearance:

MR NM KAPADIA for Petitioner

MR. NIGAM SHUKLA, Addl. G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application has been filed by the brother of the detenu. This Special Civil Application is directed against the order dated 4.5.1996 passed by the District Magistrate, Mehsana, whereby the detenu - Dengaji alias Khengarji Babaji Thakor has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985. The detention order was executed on 27.5.1996 and since then the detenu is

under detention lodged at Special Jail, Porbandar.

This Special Civil Application was filed on 25.6.1996 and on 26.6.1996 rule returnable for 23.7.1996 was issued. So far neither any reply has been filed nor affidavit of the detaining authority has been filed.

The grounds of detention enclosed with the detention order show that eight criminal cases under the Bombay Prohibition Act were registered against the detenu. Besides this, the detaining authority has also taken into consideration the statements made by four witnesses against the detenu's anti-social activities. The detaining authority has found that the detenu has become a problem to the public order and he has been detained as a bootlegger.

The detention order has been challenged on more than one grounds but at the time of argument the learned counsel has kept the submissions confined to the question that no case of breach of public order is made out.

In view of the reasons given in the judgement dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegations and the material relied upon by the detaining authority do not constitute a case of breach of public order and at the most it is a case of breach of law and order. The detention order deserves to be set aside on this ground alone.

Accordingly, the Special Civil Application is allowed and the impugned detention order dated 4.5.1996 passed by the District Magistrate, Mehsana, is hereby quashed and set aside and the detenu's detention is declared to be illegal. The respondents are directed to release the detenu-Dengaji alias Khengarji and set him at liberty forthwith, if not required in any other case. Rule is made absolute.

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